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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,980	12/19/2001	Jung-wan Ko	1293.1071D3	1189

21171 7590 10/19/2004

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/020,980

Applicant(s)

KO ET AL.

Examiner

Aristotelis M Psitos

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): The rejections predicated upon 35 USC 112.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see next sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 10 and 11.Claim(s) rejected: 9 and 12.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Aristotelis M Psitos
Primary Examiner
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ADVISORY ACTION

Information Disclosure Statement

Applicants' request with respect to the IDS papers submitted have been reviewed with the following results.

The IDS submitted concurrently with the filing of this application listed a plurality of foreign documents not provided and hence they were not reviewed. Such was indicated in the first OA of 3/19/02.

Applicants' currently indicate that such were provided in the parent file, sn 09/333520, and hence no further copies are required to be submitted. The examiner agrees and hence these documents have been made of record.

With respect to the copending applications, since the unavailable applications previously indicated have become available, these have been reviewed as well and made of record.

Please note the accompanying 892, listing the previously not considered documents.

Response to Arguments

The arguments presented with respect to the objection of claim 12 are persuasive. This claim is also drawn to a product, and not a process.

The rejections previously presented under 35 USC 112 in paragraphs 2 and 3 of the previous OA are no longer maintained.

The rejection of claims 9 and 12 are maintained however.

The arguments presented are not persuasive.

A1) The examiner concluded/previously presented that the pca is inherently present in the primary reference, or alternatively obvious in view of Kono.

1) The examiner maintains the inherency position – see the newly cited document to Yanagawa, which at col. 1 lines 11-61 describe such as part and parcel of "BACKGROUND of the INVENTION".

2) The examiner also presents the alternative rejection relying upon KONO which does teach such in this environment (recordable optical discs), and again the ability to modify the base reference so as to include such an area would be obvious for the inherent ability of controlling the power level of the overall system relied upon to playback/record to/from the record medium.

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A2) The examiner's understanding of management area is merely his conclusion. The examiner maintains this conclusion. The phrase "management data" is descriptive of what is found in such an area.

A3) With respect to providing legal precedent for the position taken in the previous OA, claim (9) merely recites that the write protection information is placed "in at least one area of the RMA area". The examiner considers such merely a relocation of this type of signal – i.e., as indicated in the previous OA, Ro et al does provide for a record protection flag in the lead in area – see col. 5 lines 53-56.

Hence the relocation of the write protection signal from the area taught in Ro et al, to the RMA area is considered a relocation of "parts" with no unexpected results occurring from such relocation. Relocation of parts without unexpected results is discussed in *In re Japikse, 86 USPQ 70.*

A4) Claim 9 is NOT limited to dvd. Arguments with respect to standardization thereof are not persuasive, since no such limitation(s) is found.

A5) Arguments drawn to a disk drive ability are not persuasive, because the claim is drawn to a product, not a drive, or interaction between a product and apparatus.

Allowable Subject Matter

Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
Art Unit 2653



AMP